

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ORDER NO. 98-708

CLEANUP AND ABATEMENT ORDER
FOR
TARTARIC MANUFACTURING CORPORATION, INC.
PLANT #2
CLASS II SURFACE IMPOUNDMENTS
NEWMAN PLANT
STANISLAUS COUNTY

The California Regional Water Quality Control Board, Central Valley Region, (hereafter Board) finds that:

1. Tartaric Manufacturing Corporation, Inc. (hereafter Discharger) operates a calcium tartrate plant on property at 2155 Hills Ferry Road in Newman, California. This property is described by Assessor's Parcel Number 49-40-04 in Section 16, T7S, R93, MDB&M. The elevation of the site is 70 feet above mean sea level, and is on the western side of the San Joaquin Valley. The plant contains three Class II surface impoundments. Discharger discharges wastewater from the production of tartaric acid to those impoundments.
2. On 19 September 1997, the Regional Board adopted Waste Discharge Requirements (WDRs) Order No. 97-196 for construction of three Class II surface impoundments. The Discharger began operations in September 1997 but did not complete construction of the surface impoundments until the middle of February 1998 causing insufficient capacity during much of their production season.
3. WDRs Order No. 97-196 reads, in part, as follows:

"A. Discharge Prohibition

1. *The discharge of solid waste or liquid waste to surface waters, surface water drainage course, or groundwater is prohibited.*
2. *The discharge of waste from the surface impoundments is prohibited."*

"B. Discharge Specifications

1. *Waste shall only be discharged into, and shall be confined to, the waste management units(WMUs) specifically designed for their containment."*

4. WDRs Order No. 97-196 also reads, in part, as follows:

"Surface impoundments and related containment structures shall be constructed and maintained to prevent, to the greatest extent possible, inundation, erosion, slope, failure, washout, and overtopping under 1,000-year, 24-hour precipitation conditions, and shall be designed to contain the 100-year wet season precipitation without using required 2 feet freeboard."

5. The Monitoring and Reporting Program No. 97-196 includes analysis of parameters/constituents for the surface impoundments, none of which have been reported as required. Flow and freeboard

measurements are required and the equipment necessary for these measurements has not been installed in violation of the WDRs.

6. On 18 February 1998 the Board staff received a complaint that the ponds were full and did not have the required two feet of freeboard. Board staff inspected the site on 18 February and observed two Class II surface impoundments with less than 8 inches of freeboard and erosion of the berms from overflow, four unclassified ponds containing wastewater from the Class II surface impoundments, solid waste located in flooded fields, water from a boiler discharging through raw product into a fire pond, and water flowing into a drainage ditch with a strong odor and dark color. These discharges violate WDRs Order No. 97-196 and threaten to create a pollution or nuisance.
7. The Discharger has discharged unknown quantities of process wastewater to three Class II surface impoundments referred to as ponds 1, 2, and 3, but has not retained records of flow as required in WDRs Order No. 97-196. The capacity of Pond 1 is 2.6 acre-feet. The capacity of Pond 2 and 3 is 7.0 acre-feet each. Ponds 1, 2, and 3 are shown on Attachment A, which is incorporated herein and made a part of this Order.
8. Tartaric Manufacturing Corporation has discharged process wastewater from their Class II surface impoundments to land surface, unclassified ponds and an irrigation/stormwater ditch to the San Joaquin River in violation of the WDRs. They have also discharged solid waste that is in direct contact with surface water. These discharges threaten to cause a condition of pollution or nuisance.
9. The beneficial uses of the groundwater beneath the site are: industrial, municipal, domestic and agricultural supply. There are 16 wells within 5,000 feet of the site. Water from these wells is used for domestic, agricultural and industrial supply.
10. The beneficial uses of the San Joaquin River are municipal and industrial, and agricultural supply; water contact and noncontact recreation; esthetic enjoyment; groundwater recharge; fresh water replenishment; and preservation and enhancement of fish, wildlife and other aquatic resources.
11. Section 13304 of the California Water Code states in part that “(a) Any person who has discharged or discharges waste into the waters of this state in violation of any waste discharge requirement or other order or prohibition issued by a regional board or the state board, or who has caused or permitted, causes or permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and creates, or threatens to create, a condition of pollution or nuisance, shall upon order of the regional board, clean up the waste or abate the effects of the waste, or, in the case of threatened pollution or nuisance, take other necessary remedial action, including, but not limited to, overseeing cleanup and abatement efforts. Upon failure of any person to comply with the cleanup or abatement order, the Attorney General, at the request of the board, shall petition the superior court for that county for the issuance of an injunction requiring the person to comply with the order. In any such suit, the court shall have jurisdiction to grant a prohibitory or mandatory injunction, either preliminary or permanent, as the facts may warrant.”

12. Section 13267 of the California Water Code states in part that "In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of discharging, or who proposes to discharge waste within its region, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of discharging, or who proposes to discharge, waste outside of its region that could affect the quality of waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports."
13. Section 13304(c)(1) of the California Water Code states that: "... the person or persons who discharged the waste, discharges the waste, or threatened to cause or permit the discharge of the waste within the meaning of subdivision (a), are liable to that government agency to the extent of the reasonable costs actually incurred in cleaning up the waste, abating the effects of the waste, supervising cleanup or abatement activities, or taking other remedial actions..."
14. The issuance of this Order is an enforcement action taken by a regulatory agency and is exempt from the provisions of the California Environmental Quality Act, pursuant to Section 15321(a)(2), Title 14, California Code of Regulations.
15. Any person affected by this action of the Board may petition the State Water Resources Control Board to review the action. The petition must be received by the State Board within 30 days of the date on which the Board took action. Copies of the law and regulations applicable to filing petitions will be provided upon request.

IT IS HEREBY ORDERED that pursuant to Sections 13267 and 13304 of the California Water Code, Tartaric Manufacturing Corporation, Inc., shall:

1. Prevent all additional releases of waste from the Class II surface impoundments. This shall include overtopping of berms by wave action.
2. Immediately cease discharging to any Class II surface impoundment unless there exists at least 2 feet of freeboard. This freeboard shall include capacity for 100-year wet season precipitation without using the required 2 feet freeboard. Any Class II surface impoundment with inadequate freeboard shall be immediately drained to levels authorized in WDRs and wastewater properly disposed of to obtain the minimum levels.
3. Drain all unclassified ponds and discharge the waste to the Class II surface impoundments. If the Class II surface impoundments have inadequate capacity the wastewater shall be contained in approved containers and either properly discharged offsite or to the Class II surface impoundments when adequate capacity is available. Board staff shall be notified prior to containerizing of wastewater and/or discharge offsite.

4. Remove all improperly disposed of wastewater and properly dispose of the liquid. Two specific areas of concern are the standing water between Pond 1 and 2, and the flooded area between Pond 1 and 2, and the processing building. If the Class II surface impoundments have inadequate capacity the wastewater shall be contained in approved containers and either discharged offsite or to the Class II surface impoundments when adequate capacity is available. Board staff shall be notified prior to containerizing of wastewater and/or discharge offsite.
5. Remove all solid waste that is located on soil. This waste shall be placed on low permeable surface not prone to flooding and covered with a liner to prevent the percolation of rain water. The waste shall then be characterized and disposed of properly.
6. Prevent any discharges of water to the Fire Pond except storm or well water.
7. Complete the following tasks in accordance with the established time schedule:

<u>Task</u>	<u>Compliance Date</u>
a. Drain all unclassified ponds and flooded areas containing wastewater as described in item 3 and 4 above, and submit a letter verifying completion.	20 March 1998
b. Remove solid waste as described in item 5 above, and submit a letter verifying completion.	20 March 1998
c. Submit a workplan for investigating soil contamination by discharges that occurred outside the Class II surface impoundments. This plan shall include a schedule to implement the plan and a report with conclusion for further evaluation or cleanup.	8 April 1998
d. Proposed monitoring wells, as described in the 5 September 1997 Waste Discharge Report, shall be installed and a report submitted that includes well logs, water level measurements and gradient map. The monitoring wells shall be sampled immediately after completion according to the parameters required in Monitoring and Reporting Program No. 97-196. The field parameters shall be included in this monitoring well installation report. Also in the report, a location of a new monitoring well upgradient of the Class II surface impoundments shall be proposed because of the impacts on present upgradient monitoring well due to wastewater discharge outside the surface impoundments.	24 April 1998
e. Final documentation report on the completion of the Class II surface impoundments shall be submitted. This report shall meet the criteria as described in Title 27, Section 20324. This report must be prepared and signed by the Construction Quality Assurance (CQA) Officer. This Officer must be a registered civil engineer or certified engineering geologist.	24 April 1998

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Newman Plant
Stanislaus County

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If, in the opinion of the Executive Officer, the Discharger violates this Order, the Executive Officer may apply to the Attorney General for judicial enforcement or issue a complaint for Administrative Civil Liability.

This Order is effective upon the date of signature.

GARY M. CARLTON, Executive Officer

Date